

AMENDED IN SENATE JUNE 15, 2006

AMENDED IN SENATE APRIL 18, 2006

AMENDED IN SENATE SEPTEMBER 2, 2005

AMENDED IN ASSEMBLY APRIL 14, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 677

Introduced by Assembly Member Parra

February 17, 2005

~~An act to add Section 454.52 to, and to add and repeal Section 454.53 of, the Public Utilities Code, relating to public utilities. An act to add Section 97.25 to the Revenue and Taxation Code, relating to local government finance.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 677, as amended, Parra. ~~Public utilities: procurement plans: waste gas. Property tax revenue allocations: McFarland Recreation and Park District.~~

Existing property tax law requires the county auditor, in each fiscal year, to allocate property tax revenue to local jurisdictions in accordance with specified formulas and procedures, and generally requires that each jurisdiction be allocated an amount equal to the total of the amount of revenue allocated to that jurisdiction in the prior fiscal year, subject to certain modifications, and that jurisdiction's portion of the annual tax increment, as defined. Existing property tax law also reduces the amounts of ad valorem property tax revenue that would otherwise be annually allocated to, among other entities, special districts pursuant to these general allocation

requirements by requiring, for purposes of determining property tax revenue allocations in each county for the 1992–93 fiscal year, that the amounts of property tax revenue deemed allocated in the prior fiscal year to certain special districts be reduced by 35%, not to exceed 10% of a district’s total annual revenues for the 1989–90 fiscal year, as reported in a specified publication of the Controller. Existing law requires the Controller to ensure that the amount of these revenue reductions for all special districts equal \$375,000,000 for each fiscal year. Existing law requires that the revenues that are not allocated to these special districts as a result of these reductions be transferred to the county Educational Revenue Augmentation Fund (ERAF) for allocation to school districts, community college districts, and the county office of education.

This bill would, for the 2006–07 fiscal year, require that these reductions for the McFarland Recreation and Park District be determined as if the district’s total annual revenues for the 1989–90 fiscal year were \$512,926. The bill would require that this change be incorporated into property tax revenue allocations for future fiscal years. This bill would also require the Controller to ensure that this change does not result in an increase in the amount of a reduction under these provisions for any other special district. This bill would make findings and declarations regarding the bill’s purpose and the necessity of a special statute.

By changing the manner in which local officials allocate property tax revenues, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

~~(1) Under existing law, the Public Utilities Commission has regulatory authority over public utilities, including electrical corporations. The Public Utilities Act requires the commission to review and adopt a procurement plan for each electrical corporation in accordance with specified elements, incentive mechanisms, and objectives.~~

~~This bill would provide that electricity generated by a project that operates solely on waste gas, as defined, is eligible to participate in an electrical corporation's procurement plan without regard to the size of the project. The bill would require, until January 1, 2017, that an electrical corporation procure electricity generated by a pilot project that generates electricity solely utilizing waste gas and that meets certain conditions, up to an aggregate limit of 25 megawatts of peak generation from all pilot projects. The term of an electricity procurement contract from a pilot project would be 10 years. The bill would make legislative findings and declarations. By establishing a new component for electrical corporation procurement, the violation of which would be a crime under existing law, this bill would change the definition of a crime, thereby imposing a state-mandated local program.~~

~~(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.~~

~~This bill would provide that no reimbursement is required by this act for a specified reason.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. (a) *The Legislature finds and declares all of the*
- 2 *following:*
- 3 (1) *The 11-acre park known as McFarland East Park, and*
- 4 *more recently as Browning Road Park, was maintained by the*
- 5 *County of Kern.*
- 6 (2) *The McFarland Recreation and Park District believed that*
- 7 *a locally administered and maintained park could better serve*
- 8 *the needs of the residents of McFarland.*
- 9 (3) *In the 1989–90 fiscal year, the County of Kern*
- 10 *Administrative Office determined that the county's annual cost to*
- 11 *maintain Browning Road Park was \$30,780 per year.*
- 12 (4) *The McFarland Recreation and Park District agreed to be*
- 13 *paid \$307,800 for the financial equivalent of the county's*
- 14 *estimated maintenance and operation cost for Browning Road*
- 15 *Park for the next 10 years.*

1 (5) Due to an accounting error, the maintenance
2 reimbursement money received from the County of Kern was
3 placed in the general park maintenance reserve account and not
4 amortized; nor was a reservation of fund balance established.

5 (6) This accounting error greatly inflated the district's total
6 annual revenues for purposes of the Educational Revenue
7 Augmentation Fund (ERAF) allocations required by Section 97.2
8 of the Revenue and Taxation Code.

9 (7) The district has paid in excess of \$360,000 to ERAF since
10 1993 due to this accounting error.

11 (8) The McFarland Recreation and Park District continues to
12 send the \$30,780 annual maintenance cost of the park to ERAF.

13 (9) McFarland is an underprivileged city with the 10th lowest
14 household income in the United States and annual unemployment
15 levels of 27 percent.

16 (10) The residents of McFarland, due to economic constraints,
17 use the district's parks as their primary means of recreation and
18 vacation.

19 (11) The district has had to reduce full-time staff by 40 percent
20 and curtail vital recreation services due to this accounting error.

21 (b) Therefore, the Legislature finds and declares that a special
22 law is necessary and that a general law cannot be made
23 applicable within the meaning of Section 16 of Article IV of the
24 California Constitution because of the unique fiscal pressures
25 being encountered by the McFarland Recreation and Park
26 District in providing vital recreation services.

27 SEC. 2. Section 97.25 is added to the Revenue and Taxation
28 Code, to read:

29 97.25. (a) (1) Notwithstanding any other law, for the
30 2006–07 fiscal year, the amount of the property tax revenue
31 allocation reduction required by Section 97.2 for the McFarland
32 Recreation and Park District shall be determined as if that
33 district's total annual revenues, from whatever source, as shown
34 in the 1989–90 edition of the State Controller's Report on
35 Financial Transactions Concerning Special Districts (not
36 including any annual revenues from fiscal years following the
37 1989–90 fiscal year), are five hundred twelve thousand nine
38 hundred twenty-six dollars (\$512,926).

39 (2) For the 2007–08 fiscal year and each fiscal year
40 thereafter, the amounts determined under subdivision (a) of

1 *Section 96.1, or any successor to that provision, shall reflect, for*
2 *a preceding fiscal year, the allocation adjustment required by*
3 *this section.*

4 *(b) In making the determinations required by subparagraph*
5 *(A) of paragraph (3) of subdivision (c) of Section 97.2 for the*
6 *2006–07 fiscal year and for each fiscal year thereafter, the*
7 *Director of Finance shall ensure that the operation of*
8 *subdivision (a) does not result in a net increase in the total*
9 *amount of the reduction required by Section 97.2 for any special*
10 *district.*

11 *SEC. 3. If the Commission on State Mandates determines that*
12 *this act contains costs mandated by the state, reimbursement to*
13 *local agencies and school districts for those costs shall be made*
14 *pursuant to Part 7 (commencing with Section 17500) of Division*
15 *4 of Title 2 of the Government Code.*

16 ~~SECTION 1. The Legislature finds and declares all of the~~
17 ~~following:~~

18 ~~(a) The in-state production of petroleum products provides~~
19 ~~economic benefits to the state and to the economy by reducing~~
20 ~~dependence on foreign oil and by creating jobs and tax revenues.~~

21 ~~(b) Natural gas that is produced as a byproduct of in-state~~
22 ~~petroleum production operations that is not eligible for delivery~~
23 ~~into the utility pipeline system is being flared into the atmosphere~~
24 ~~or reinjected into the ground, both significant sources of air~~
25 ~~pollution.~~

26 ~~(c) Flaring and reinjecting this gas wastes a low-cost~~
27 ~~clean-burning fuel that, like gas produced at landfills, can be~~
28 ~~used to generate electricity.~~

29 ~~(d) An alternative to flaring or reinjecting natural gas that is~~
30 ~~generated as a byproduct of in-state petroleum production~~
31 ~~operations is using it to generate electricity, like gas produced at~~
32 ~~landfills. Utilization of this natural gas as a low-cost fuel to~~
33 ~~generate electricity will reduce air pollution and produce~~
34 ~~low-cost electricity for California consumers, providing both~~
35 ~~economic and environmental benefits to the state.~~

36 ~~(e) It is in the public interest to utilize this natural gas to~~
37 ~~generate electricity because to do so reduces air pollution,~~
38 ~~provides a low-cost source of electricity and contributes to~~
39 ~~domestic energy security and economic growth in this state.~~

1 ~~SEC. 2. Section 454.52 is added to the Public Utilities Code,~~
2 ~~as immediately following Section 454.5, to read:~~

3 ~~454.52. (a) The electricity generated by a project that~~
4 ~~operates solely on waste gas shall be eligible to participate in any~~
5 ~~procurement conducted pursuant to Section 454.5, without regard~~
6 ~~to the size of the project.~~

7 ~~(b) The commission, the Independent System Operator, and an~~
8 ~~electrical corporation, in carrying out their respective duties,~~
9 ~~shall take into consideration the small scale of the distributed~~
10 ~~generation projects that operate solely on waste gas, and shall not~~
11 ~~impose a requirement that such a project produce a minimum~~
12 ~~amount of electricity in order to be scheduled into the~~
13 ~~transmission grid, and shall permit aggregation of projects.~~

14 ~~(c) As used in this section, “waste gas” means natural gas that~~
15 ~~meets all of the following criteria:~~

16 ~~(1) It is produced as a byproduct of in-state petroleum~~
17 ~~production operations.~~

18 ~~(2) It is not eligible for delivery to the utility natural gas~~
19 ~~pipeline system.~~

20 ~~(3) It would otherwise be flared into the atmosphere or~~
21 ~~reinjecting into the ground.~~

22 ~~SEC. 3. Section 454.53 is added to the Public Utilities Code,~~
23 ~~to read:~~

24 ~~454.53. (a) An electrical corporation shall procure electricity~~
25 ~~generated by a pilot project that generates electricity solely~~
26 ~~utilizing waste gas if all of the following requirements are met:~~

27 ~~(1) The State Energy Resources Conservation and~~
28 ~~Development Commission certifies that the project operates~~
29 ~~solely on natural gas that is produced as a byproduct of in-state~~
30 ~~petroleum production operations, and that is not eligible for~~
31 ~~delivery into the utility pipeline system because of quality or~~
32 ~~location, and that would otherwise be flared into the atmosphere~~
33 ~~or reinjecting into the ground.~~

34 ~~(2) The air quality management district or air pollution control~~
35 ~~district, in issuing a permit to operate the project, determines that~~
36 ~~the operation of the project will produce an onsite net air~~
37 ~~emissions benefit, compared to permitted onsite emissions if the~~
38 ~~project does not operate, consistent with the district’s treatment~~
39 ~~of permits to generate electricity using landfill gas.~~

1 ~~(3) The contract price for the electricity generated by the pilot~~
2 ~~project does not exceed six cents (\$0.06) per kilowatthour.~~

3 ~~(4) The peak generating capacity of the pilot project does not~~
4 ~~exceed five megawatts.~~

5 ~~(b) An electrical corporation shall contract to procure~~
6 ~~electricity generated by a pilot project meeting the requirements~~
7 ~~of subdivision (a) on a first-come-first-served basis, until the~~
8 ~~electrical corporation's total aggregate peak purchases of~~
9 ~~electricity from all pilot projects are 25 megawatts. An electrical~~
10 ~~corporation may purchase more than 25 megawatts of electricity~~
11 ~~generated from projects that solely utilize waste gas, consistent~~
12 ~~with a procurement plan approved by the commission pursuant to~~
13 ~~Section 454.5.~~

14 ~~(c) A contract for the purchase of electricity generated by a~~
15 ~~pilot project meeting the requirements of subdivision (a) shall be~~
16 ~~for a term of 10 years.~~

17 ~~(d) This section shall remain in effect only until January 1,~~
18 ~~2017, and as of that date is repealed, unless a later enacted~~
19 ~~statute, that is enacted before January 1, 2017, deletes or extends~~
20 ~~that date.~~

21 ~~SEC. 4. No reimbursement is required by this act pursuant to~~
22 ~~Section 6 of Article XIII B of the California Constitution because~~
23 ~~the only costs that may be incurred by a local agency or school~~
24 ~~district will be incurred because this act creates a new crime or~~
25 ~~infraction, eliminates a crime or infraction, or changes the~~
26 ~~penalty for a crime or infraction, within the meaning of Section~~
27 ~~17556 of the Government Code, or changes the definition of a~~
28 ~~crime within the meaning of Section 6 of Article XIII B of the~~
29 ~~California Constitution.~~